

## **ZONING BOARD OF APPEALS**

**Tuesday, October 20, 2009  
6:30 P.M. – City Council Chambers  
Rockford City Hall, 425 East State Street**

### **Present:**

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| <b>ZBA Members:</b> | Alicia DiBenedetto Neubauer<br>Aaron Magdziarz<br>Dan Roszkowski<br>Scott Sanders<br>Craig Sockwell   |
| <b>Absent:</b>      | Julio Salgado   |
| <b>Staff:</b>       | Todd Cagnoni - Deputy Director, Construction Services<br>Sandra Hawthorne – Administrative Assistant<br>Jon Hollander – City Engineer, Public Works |
| <b>Others:</b>      | Reid Montgomery, Director of Economic & Community Development<br>Kathy Berg, Stenographer<br>Applicants and Interested Parties                      |

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Acting Chairman Dan Roszkowski called the meeting to order at 6:30 PM.

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as follows:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, November 2, at 4:30 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting. The City's web site address for minutes of this meeting were listed on the agenda as well.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the minutes of the September 15th meeting as submitted. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0, with Julio Salgado absent.

**038-09**                      **6180 East State Street**  
Applicant                  Ramesh Vemuri  
Ward 1                      **Special Use Permit** for a Methadone Clinic in a C-2, Limited Office Zoning District  
                                 **Laid Over from September meeting**

A **MOTION** was made by Craig Sockwell to **LAY OVER** the Special Use Permit for a Methadone Clinic in a C-2, Limited Office Zoning District at 6180 East State Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

**039-09**                      **6954 Clovernook Road**  
Applicant                  Gabriel Macias  
Ward 1                      **Variation** to increase the maximum fence height from four (4) feet to six (6) feet in the  
                                 front yard in an R-1, Single-family Residential Zoning District  
                                 **Laid Over from September meeting**

This item was Laid Over at the September meeting at the request of the Applicant. The subject property is located on the northwest corner of Clovernook Road and Albany Lane and is a single-family residence. This application is a result of a violation. Gabriel Macias, Applicant, reviewed his request. Mr. Macias stated the fence already on his property when purchased was in disrepair and he changed the wood panels to vinyl. He stated the fence was the same height then as is now. Mr. Sanders pointed out the 2007 fence permit in the Applicant's name that was included in Staff's report showed the permit authorized 4' height in the front yard. Mr. Sanders stated the report also mentions part of the fence is located outside of the property line. Mr. Hollander explained the standard width for a sidewalk in 2007 was 5 feet, located 1 foot off the right-of-way line, which could indicate encroachment by the placement of the fence.

Mr. Sanders felt as long as the height of the fence was on the back half of the lot he would support the application. Mr. Roszkowski stated this fence does seem to be quite close to the sidewalk. Mr. Hollander stated there would be an obstruction of sight if the neighbor was pulling out into the street. He further stated there could be an encroachment on people walking passed each other on the sidewalk because of the placement of the fence. Mr. Sanders felt it was the Applicant's responsibility to prove to Staff that the fence is within the property line. Mr. Cagnoni stated if the Variation was approved, Staff would follow up to be certain the fence was not in the right-of-way. If it was, it would need to be moved. The Board agreed that proof of property line should be a condition of approval.

Staff Recommendation is for Denial. No Objectors or Interested Parties were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to increase the maximum fence height from four feet to six feet in the front yard in an R-1, Single-family Residential Zoning District at 6954 Clovernook Road with the addition of condition 1. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. The property owner must demonstrate to Staff that the fence is not encroaching on the right-of-way by the location of property pins.

**ZBA 039-09**  
**Findings of Fact for a Variation**  
**To Increase the Maximum Fence Height**  
**From 4 Feet to 6 Feet in the Front Yard**  
**In an R-1, Single-family Residential Zoning District at**  
**6954 Clovernook Road**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

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| <b>043-09</b><br>Applicant<br>Ward 14 | <b><u>4430 Manchester Drive</u></b><br>Telegraph Road LLC<br><b>Variation</b> to decrease the minimum front yard setback from 30 feet to 20 feet along Manchester Drive in a C-3, General Commercial Zoning District |
|---------------------------------------|--|

The subject property is located 311 feet northwest of the Manchester Drive and South Alpine Road intersection. The existing office building was found not to be in compliance with the Zoning Ordinance when the property was surveyed. This item and Items ZBA 044-09 and ZBA 045-09 are all under the same ownership, and in the same location. As such, Attorney James Rodriguez, representing the Applicants, reviewed this property as well as item 044-09 and 045-09. Attorney Rodriguez explained that since the original application, the property has been sold to "Telegraph Road LLC" and he is representing them as the new Applicant. For this application, they are asking that the setback line be reduced from 30 feet to 20 feet. An application for a building permit was submitted when constructed and the permit was approved and issued with the dimensions given on the permit application. It appears there may be other buildings in this area that also encroach on setback lines. Attorney Rodriguez explained there is still a significant buffer between the buildings and road area.

Staff Recommendation was for Approval with 1 condition. No Objectors or Interested Parties were present.

Mr. Sanders asked if there would be new tenants. Attorney Rodriguez stated there would be some new tenants but not certain. There was concern that a bar would be at this location; however, Mr. Cagnoni stated because of the proximity of a church nearby this was unlikely. Mr. Roszkowski stated quite a few of the buildings in the area look to be less than a 50 feet setback. Ms. Neubauer asked if the parking lot encroached on the alleyway. Mr. Cagnoni stated this was a private drive, and the responsibility of the maintenance of this drive is shared by the owners of the lot.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Variation to decrease the minimum front yard setback from 30 feet to 20 feet along Manchester Drive in a C-3, General Commercial Zoning District at 4430 Manchester Drive. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.

**ZBA 043-09**  
**Findings of Fact for a Variation**  
**To Decrease the Maximum Front Yard Setback**  
**From 30 Feet to 20 Feet Along Manchester Drive**  
**In a C-2, General Commercial Zoning District at**  
**4430 Manchester Drive**

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**044-09**                      **4412 Manchester Drive**  
Applicant                  Telegraph Road LLC  
Ward 14                    **Variation** to decrease the minimum front yard setback from 30 feet to 23 feet along  
Manchester Drive in a C-3, General Commercial Zoning District

The subject property is located 488 feet northwest of the Manchester Drive and South Alpine Road intersection and is currently a vacant building. Per Attorney Rodriguez, this building is the same as the previous item in that the existing building was found not to be in compliance with the Zoning Ordinance when the property was surveyed. This building was constructed in 1986 and also received an approved building permit with the dimensions listed as built.

Staff Recommendation was for Approval with 1 condition. No Objectors or Interested parties were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to decrease the minimum front yard setback from 30 feet to 23 feet along Manchester Drive in a C-3, General Commercial Zoning District at 4412 Manchester Drive. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.

#### **ZBA 044-09**

##### **Findings of Fact for a Variation**

##### **To Decrease the Maximum Front Yard Setback From 30 Feet to 23 Feet Along Merchandise Drive In a C-3, General Commercial Zoning District at 4412 Manchester Drive**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

045-09

Applicant  
Ward 14

**4415 Harrison Avenue**

Telegraph Road LLC

**Variation** to decrease the minimum front yard setback from 60 feet to 50 feet along Harrison Avenue in a C-3, General Commercial Zoning District

The subject property is located 311 feet northwest of the Manchester Drive and South Alpine Road intersection and is currently a strip center. As with the previous two items, the existing building was found not to be in compliance with the Zoning Ordinance when the property was surveyed. This building also received an approved building permit to the dimensions given prior to construction.

Staff Recommendation was for Approval with 1 condition. No Objectors or Interested Parties were present.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Variation to decrease the minimum front yard setback from 60 feet to 50 feet along Harrison Avenue in a C-3, General Commercial Zoning District at 4415 Harrison Avenue. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.

**ZBA 045-09**

**Findings of Fact for a Variation**

**To Decrease the Maximum Front Yard Setback From 60 Feet to 50 Feet Along Harrison Avenue  
In a C-3, General Commercial Zoning District at  
4415 Harrison Avenue**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**046-09**  
Applicant  
Ward 3

**716 North Church Street**  
General Properties, Inc.  
**Special Use Permit** for a Bed and Breakfast in a C-1, Limited  
Office Zoning District

A **MOTION** was made by Craig Sockwell to **LAY OVER** the request for Special Use Permit for a Bed and Breakfast in a C-1, Limited Office Zoning District at 716 North Church Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

With no further business to come before the Board, the meeting was adjourned at 7:00 PM

Respectfully submitted,  
Sandra A. Hawthorne, Administrative Assistant  
Zoning Board of Appeals